



Department of Land Conservation and Development

1175 COURT STREET NE, SALEM, OREGON 97310-0590 PHONE (503) 373-0050

August 31, 1988

The Honorable S. Jean Cowan
Mayor, City of Elgin
PO Box 128
Elgin, Oregon 97827

Dear Mayor Cowan:

The 1981 Oregon Legislature adopted laws requiring cities and counties to review their comprehensive plans periodically and to make changes as necessary to keep plans up to date. Plans must reflect changes in the community, the statewide planning goals, and other laws and programs affecting land use. The Land Conservation and Development Commission is responsible for coordinating local jurisdictions' periodic plan updates in accordance with ORS 197.640 and Oregon Administrative Rule (OAR) Chapter 660, Division 19, Periodic Review.

This letter is to provide you with six months notice of the date for the City of Elgin's first required periodic review submittal. That date is February 28, 1989.

Your jurisdiction qualifies for expedited review. This means you may proceed under one of three options by the date indicated above.

Option 1: The first choice is to submit a letter requesting delay in periodic review to the next review cycle. The letter must explain that substantial changes in circumstances have not occurred and therefore the plan continues to provide adequate guidance for land use decisions until the next review cycle. The letter must also describe steps which have been or will be taken to assure the plan is consistent with new or amended statutes, Statewide Planning Goals or administrative rules adopted since acknowledgment.

Option 2: The second choice is to submit a copy of your plan and land use regulations for DLCD review, without a local periodic review order. DLCD would then have up to one year to conduct its review and inform the local government of any changes needed to meet periodic review requirements. As part of this review, the Director may determine that no periodic review is required and reschedule the review for the next cycle of periodic reviews.

Option 3: The third choice is to follow the complete periodic review process.

August 31, 1988

Enclosed is a summary of procedures to be followed and items to be addressed in the city's periodic review order. The review order is a "findings document" addressing each of the periodic review requirements. Your local review order may find that some of these requirements are not applicable to your city. Other items will require a more complete review. Please call your field representative and the state agency contact persons if you need assistance in interpreting any requirements.

Also enclosed are instructions for preparing a local review order, a sample review order, and a current copy of the Periodic Review Rule. These documents will help you in your review of the city's plan and land use regulations and also with preparation of your local review order.

If your plan applies to any area jointly managed by a city and county, both jurisdictions need to be involved in the local periodic review process.

Your jurisdiction may be eligible for a grant to cover a portion of the expenses related to your local periodic plan review. A grant offer, which identifies the amount of money available, is attached to this notice. (NOTE: If your jurisdiction qualifies for "Expedited Review" and chooses option one or two, a periodic review grant may not be available.) Please contact your field representative if you need further information concerning the grant offer.

We look forward to working with you on your periodic review. Please feel free to contact your field representative, Brent Lake, at 388-6424 should you have any questions.

Sincerely,


James F. Ross
Director

JFR:tmc/sp

Attachments to City Planning Director Only

- Sample Review Order
- OAR 660-19
- Goal 5 Memorandum
- Notice Forms (Plan and land use regulation amendments)
- Minimum Streamflow Requirements

cc: Union County Court

City Planning Director

Brent Lake, Field Representative

PR Files (LR, RC, Ptld, Library)

Affected State Agencies

PERIODIC REVIEW NOTICE

Jurisdiction: City of Elgin

Submittal Due Date: February 28, 1989

Date of Acknowledgment: March 15, 1984

INTRODUCTION

This notice outlines the requirements for the City of Elgin conducting a local periodic review of the city's comprehensive plan and land use regulations. Oregon Administrative Rule (OAR) 660-19-050 requires the Department of Land Conservation and Development (DLCD) Director to inform local governments of their responsibility to conduct a periodic review of their plans and land use regulations. Each notice must specify the date by which the local government must submit both a proposed local review order and the date of the final local hearing on the proposed local review order. Each notice must also include a listing of items the local review must address under the periodic review factors pursuant to OAR 660-19-055 through 057.

This periodic review notice is intended to fulfill the above requirements. The following pages contain sections of OAR 660, Division 19, which state what issues must be looked at and suggestions on how the analysis could be conducted. A sample proposed review order is attached as an example of how a local government might approach preparation of a review order. A copy of the administrative rule for periodic review (OAR 660, Division 19) is also attached. The notice includes the names and phone numbers of your field representative and state agency contact persons. Please feel free to contact these people in order to clarify periodic review responsibilities or for other assistance in conducting your review.

PROCEDURAL REQUIREMENTS

Your jurisdiction qualifies for expedited review. This means you have three options to take by the date indicated above.

Option 1

The first choice is to submit a letter requesting delay in periodic review to the next review cycle. The letter must explain that substantial changes in circumstances have not occurred and therefore the plan continues to provide adequate guidance for land use decisions until the next review cycle; and what steps have been or will be taken to assure the plan is consistent with new or amended statutes, Statewide Planning Goals or administrative rules adopted since acknowledgment.

Option 2

The second choice is to submit a copy of your plan and land use regulations for DLCD review without a local periodic review order. DLCD would then have up to one year to conduct its review and inform the local government of any changes needed to meet periodic review requirements. As part of this review, the Director may determine that no periodic review is required as outlined under subsection (a) of this section and reschedule the review for the next cycle of periodic reviews.

Option 3

The third choice is to follow the complete periodic review process as if the jurisdiction did not qualify for expedited review. If the city chooses to follow the complete process the following requirements apply:

The City of Elgin must submit four copies of its proposed local review order including the date of final hearing to the DLCD Salem office by February 28, 1989. The date of the final hearing must be between 90 and 120 days after the submittal. The proposed local review order consists of findings addressing the four periodic review factors and any necessary plan and land use regulation amendments. Please note that plan and land use regulation amendments also require notice to DLCD under "post-acknowledgment" amendment requirements (OAR 660, Division 18). DLCD will notify you of concerns the Department has relative to the proposed order and amendments before your final hearing. Other parties may wait to notify you of their concerns at the final hearing. Following the final hearing, and no later than twenty (20) working days after adoption of the final review order, you must submit four copies of the order and any adopted plan or land use regulation amendments to DLCD at the Salem office. Please refer to the Periodic Review Rule, OAR 660, Division 19 for further details or contact your field representative, Brent Lake, at 388-6424.

Updating DLCD Files

DLCD's land use files for many jurisdictions contain a variety of materials submitted over time. In order to efficiently complete periodic review, it is important for DLCD to confirm that it has on file a complete copy of the comprehensive plan and land use regulations currently in effect. DLCD requests that jurisdictions which have codified, reprinted or otherwise combined previously acknowledged plan material, include two copies of this material with their submittal. Jurisdictions which do not have current printings of their plan and land use regulations should provide DLCD with a list and dates of adoption of all plan amendments, ordinances and other documents which constitute the current comprehensive plan and land use regulations.

Codified Plan Requirements

Land use statutes and rules require each jurisdiction to file three copies of a codified plan and land use regulations within six months of the completion of the periodic review process. You should build this requirement into your work program and budget an appropriate amount of money to complete this task. The codified documents can be either a reprinting or merely a complete and accurate copy of required materials. Please refer to OAR 660-19-097 or contact your field representative if you have questions about this requirement.

CITIZEN INVOLVEMENT AT PERIODIC REVIEW

Background

Each jurisdiction in the state has an "approved" citizen involvement program. Under Goal 1 these programs assure widespread involvement in all phases of the planning process. At periodic review, these programs will serve as the method of obtaining citizen input and providing feedback.

Before beginning the local periodic review process, the local government should review the approved citizen involvement program to determine how it operates at periodic review. Many programs will not be specific concerning periodic review, but will describe the various citizen groups and their roles in the planning process. Local governments must decide whether the existing programs will properly interface with periodic review procedures and whether the program will assure adequate citizen involvement.

If the program is adequate, the jurisdiction will need to merely implement the provisions as outlined in the program.

If the program is not adequate, revisions should be initiated in advance of periodic review, allowing adequate time for the review and approval of program changes.

Program Revisions

Any amendment to an approved citizen involvement program must be processed according to requirements for plan amendments. These requirements are contained in ORS 197.610 through ORS 197.625, and OAR 660, Division 18.

In addition to the plan amendment procedures, any citizen involvement program change must be reviewed by the state Citizen Involvement Advisory Committee (CIAC) and approved by the Land Conservation and Development Commission (LCDC).

This process can be initiated by submitting an evaluation of the program and the proposed changes to the Department in Salem or through the local field representative. The plan amendment

notice required by ORS 197.610 should be submitted simultaneously if possible.

SUBSTANTIVE REQUIREMENTS

ORS 197.640 and OAR 660-19-055 require each local government to adopt findings stating whether any of the four periodic review factors apply. If the factors apply, the jurisdiction must bring the plan and land use regulations into compliance with requirements identified by the periodic review factor. The four factors as described in OAR 660-19-055(2)(a)-(d) are:

Factor One

"There has been a substantial change in circumstances, including, but not limited to, the conditions, findings, or assumptions upon which the comprehensive plan or land use regulations were based so that the comprehensive plan or land use regulations do not comply with the goals";

Factor Two

"Previously acknowledged provisions of the comprehensive plan or land use regulations do not comply with the goals because of goals subsequently adopted or statewide land use policies adopted as rules interpreting goals under ORS 197.040";

Factor Three

"The comprehensive plan or land use regulations are inconsistent with a state agency plan or program relating to land use that was not in effect at the time the local government's comprehensive plan was acknowledged, and the agency has demonstrated that the plan or program:

- (A) Is mandated by state statute or federal law;
- (B) Is consistent with the goals; and
- (C) Has objectives that cannot be achieved in a manner consistent with the comprehensive plan or land use regulations."

Factor Four

"The city or county has not performed additional planning that:

- (A) Was required in the comprehensive plan or land use regulations at the time of initial acknowledgment or that was agreed to by the city or county in the receipt of state grant funds for review and update; and

- (B) Is necessary to make the comprehensive plan or land use regulations comply with the Goals."

The following pages explain these factors in greater detail as they pertain to the City of Elgin's periodic review.

FACTOR ONE

SUBSTANTIAL CHANGE IN CIRCUMSTANCES

OAR 660-19-055(2)(a) and 660-19-057

To determine whether the substantial change in circumstances factor does or does not apply, the City of Elgin's review must contain findings on the following subfactors which are described in greater detail in the following pages:

- A. Unanticipated developments or events;
- B. Cumulative effects of plan amendments and implementation actions;
- C. Plan policies relating to goal requirements which have not been carried out;
- D. Availability of new inventory information;
- E. Consistency with new or revised statutes;
- F. Other issues involving a substantial change in circumstances.

Subfactor One-A: Unanticipated Developments or Events

"Major developments or events which have occurred that the acknowledged plan did not assume or anticipate or major developments or events which have not occurred that the acknowledged plan did assume or anticipate. Local periodic review findings must describe any occurrences such as: the construction of or decision not to build a large project like a major reservoir, a regional shopping center, a major energy or transportation facility; a significant change in the local government's natural resources or economic base; significant unexpected population growth; significant consecutive decline in population growth rate; failure or inability to provide public facilities and services in accordance with the plan, etc." OAR 660-19-057(1)(a)

The City of Elgin's local review should not limit itself to the types of circumstances specifically mentioned in the rule. The local review should be based on local knowledge of any

substantial change in circumstances which might make the plan or land use regulations not comply with the goals. Knowledge of these circumstances might come from citizen involvement committee discussions, staff research, or comments from citizens or agencies. The order should state what the changed circumstances are, how the knowledge was obtained, and how any proposed plan or land use regulation amendments bring the plan and regulations into compliance.

We are unaware of any major unanticipated developments affecting your plan or regulations. This does not mean that the city need not conduct a local review of this subfactor. You must still present findings as to whether this subfactor applies to the local review and describe the process by which this determination was made.

Subfactor One-B: Cumulative Effects

"Cumulative effects resulting from plan and land use regulation amendments and implementation actions on the acknowledged plan's factual base, map designations, and policies which relate to statewide goal requirements.

- (A) For local governments responsible for plans inside urban growth boundaries, periodic review findings must: describe the cumulative effects of plan and land use regulation amendments and implementation actions on the overall urban land supply for the plan's chosen (usually 20 years) time frame; on the amount of vacant buildable land remaining for needed housing and economic development; on the provision of public facilities and services to meet development needs identified in the plan; on the protection of Willamette Greenway values and resources; on the amount of vacant especially suited, water-dependent coastal shoreland areas; and on other specific statewide planning goal matters that the Director includes on the local government's periodic review notice."

OAR 660-19-057(1)(b)

Jurisdictions should report on plan and land use regulation amendments and implementation actions which have occurred since the plan was adopted and briefly assess the cumulative effect of those actions on the plan, especially focusing on the listed topics. Where a substantial change or significant effect on the plan is found, the jurisdiction should amend the plan or land use regulations as necessary to bring them into compliance with the goal requirements. Where no substantial change or significant effect is found, or when the listed topics do not apply, the order should specifically state this finding of the jurisdiction.

DLCD review of the city's plan and land use regulation amendment files has not discovered any significant cumulative effects from

amendments and implementation actions which require special analysis under this subsection. The city must still conduct a local review of this factor and present findings based on that review.

Subfactor One-C: Unfulfilled Plan Policies

"Oversight or a decision by the local government to delay or not carry out plan policies which relate to a statewide goal requirement. Local periodic review findings must describe why, for example, policies in the plan requiring a citizen involvement program evaluation, a revised inventory of natural hazards, or a date-specific, overall revision of the plan, etc., have not been completed." OAR 660-19-057(1)(c)

The local review must include an analysis of whether or not plan policies related to goal requirements have been carried out. This local analysis must be conducted even if DLCD does not identify any policies which the city has neglected to carry out.

DLCD has not identified any plan policies which have not been carried out.

Subfactor One-D: New Information

"Incorporation into the plan of new inventory material which relates to a statewide goal made available to the jurisdiction after acknowledgment. Local periodic review findings must list what applicable published state or federal reports have been made available to the jurisdiction after acknowledgment containing new inventory material, for example, on groundwater availability, air quality, big game habitat, census information, soil surveys, natural hazards, etc., and describe what steps, including any amendments to the plan's factual base, policies, map designations and land use regulations, have been taken in response to this information." OAR 660-19-057(1)(d)

DLCD has determined that the following new published inventory information needs to be reviewed and incorporated into comprehensive plan and land use regulations as appropriate and where applicable to your jurisdiction. Please address the applicability of each of the listed inventories in your review order and summarize the text of amendments necessary to update the plan with inventory information. The inventories are available from the noted agencies.

Oregon Department of Transportation: 1983 Statewide Comprehensive Outdoor Recreation Plan (SCORP) updates for counties; state parks inventory updates (from State Parks System Plan and individual state parks master plans); highway inventory updates (from Highway Transportation Plan, Highway

Preservation Study and the Six-Year Highway Improvement Program); Historic Highway Bridges of Oregon 1985; contact Al Cook, 378-6378 on parks and Larry Christianson, 378-4548 on airports and highways.

Department of Environmental Quality: Annual Air Quality Reports; biennial Water Quality Assessment Reports; 1980 Major Water Table Aquifers with Sensitive Areas Map; Hazardous and Solid Waste Report; contact Lydia Taylor, 229-6485.

Department of Water Resources: Ongoing critical groundwater studies; Grande Ronde Basin Program; contact Jake Szramek, 378-3671.

Economic Development Department: State and national trend information to assist in compliance with ORS 197.712(2); contact Henry S. Markus, 373-1231.

Portland State University: Annual population estimates; contact 229-3922.

U.S. Fish and Wildlife Service: Wetlands Inventory Maps; contact Ben Harrison of the USFWS at 231-6154.

Subfactor One-E: New or Revised Statutes

"Consistency of the plan and land use regulations with new or amended statutes adopted since acknowledgment. Local periodic review findings must address new statutes adopted since initial acknowledgment and explain how the plan and land use regulations continue to meet the statutory requirements."

The following new or revised statutes were adopted by the Oregon Legislature since your jurisdiction's acknowledgment. Therefore, your jurisdiction's obligation to comply with the new or amended statute is a substantial change in circumstances affecting your plan or land use regulations. The new or amended statutes are briefly summarized below with effective dates noted.

The jurisdiction should evaluate each statute in order to determine what is required. The jurisdiction should then investigate its plan and land use regulations to determine whether they are in compliance with the statute and develop plan or regulation amendments as necessary to attain compliance.

The local review order should state whether or not the jurisdiction finds that the statute applies, whether plan or regulation amendments are necessary to attain compliance with the statutory requirements, and should briefly describe the necessary amendments. The text of proposed amendments should be submitted along with the proposed order if possible. Proposed amendments must be submitted to DLCD pursuant to OAR 660, Division 18 ("post-acknowledgment") 45 days in advance of the final hearing on adoption.

STATUTES

EFFECTIVE DATE

ORS 179.010--Corrections Facilities

1987

ORS 179.010 establishes an Emergency Corrections Facilities Siting Authority. The Siting Authority has the authority to make corrections facility siting decisions subject to the Governor's approval. Such decisions are binding on local government as to the approval of the site and the construction and operation of the facility. A task force is established to develop a statewide "Strategic Corrections Plan."

ORS 197.020--Nondiscrimination

1987

ORS 197.020 requires that age, gender or physical disability shall not be an adverse consideration in making a land use decision as defined in ORS 197.015(10).

ORS 197.295-197.313--Needed Housing

At first periodic
review

ORS 197.303 states that "needed housing" also means: "(a) Housing that includes, but is not limited to, attached and detached single-family housing and multiple family housing for both owner and renter occupancy and manufactured homes; and (b) Government assisted housing." The statute exempts a city with a population of less than 2,500 or a county with a population of less than 15,000 from applying ORS 197.303(1)(a). Jurisdictions must also meet the definition of needed housing contained in OAR 660-08-005.

ORS 197.295(4)--Mobile Home Park Definition

1987

A mobile home park is a lot, tract, or parcel with four or more spaces for rent within 500 feet of one another. (Only applicable within UGBs)

ORS 197.480 to .490--Mobile Home Parks

July 1, 1990 or next
periodic review
whichever is first

ORS 197.480 requires that each city and county provide for mobile home parks as an allowed use on buildable lands within urban growth boundaries. Sufficient land must be planned and zoned for a density of 6 to 12 units per acre to accommodate

need. Need must include consideration of existing parks which may be displaced because they are located on industrial, commercial, or high density residential land. Criteria and standards for the placement and design of mobile home parks must be clear and objective. A public hearing may be required for approval of a mobile home park.

ORS 197.485 states that a jurisdiction may not prohibit placement of a mobile home, due solely to its age, in a mobile home park in a zone with a density of 8 to 12 units per acre. Reasonable safety and inspection requirements may be established for units which do not conform to the National Manufactured Home Construction and Safety Standards Act of 1974. 1987

ORS 197.490 states that a mobile home park may not be established on land within an urban growth boundary which is planned or zoned for commercial or industrial use. If no other access is available, access may be provided through a commercial or industrial zone. 1987

ORS 197.732--Goal Exceptions 1983

ORS 197.732 revised requirements for taking an exception to the goals. These amended exception requirements have been incorporated into Goal 2 and the Goal 2 rule (OAR 660-04-000).

ORS 197.752--Lands Available for Urban Development 1983

ORS 197.752(1) states that lands within urban growth boundaries shall be available for urban development concurrent with the provision of key urban facilities and services in accordance with locally adopted development standards.

ORS 197.752(2) states that, notwithstanding ORS 197.752(1), lands not needed for urban uses during the planning period may be designated for agriculture, forestry or other nonurban uses.

ORS 197.767--Wetland Definition

1987

An area of privately owned land which otherwise satisfies the definition of a wetland is not defined as a wetland if it was created by human activity after the date of a jurisdiction's acknowledgment as part of an approved development project. This exclusion does not apply to mitigation areas.

ORS 227.175--Application Fees,
Consolidated Procedures, etc.

At first periodic
review

ORS 227.175(1) requires that a city "shall establish fees charged for processing permits at an amount no more than the actual or average cost of providing that service."

ORS 227.175(2) requires that a city establish a consolidated procedure by which an applicant may apply at one time for all permits or zone changes needed for a development project. The procedure is subject to the 120-day time limit set out in ORS 227.178;

ORS 227.175(3)-(4) requires at least one public hearing; approval based on compliance with the comprehensive plan; provisions for notice to the applicant and other interested parties; notice to mobile home park tenants at least 20 but no more than 40 days before a hearing on a proposed zone change for the mobile home park they reside within; and approval or denial of an application for a permit without a hearing if notice and appeal provisions are provided to those persons who would have had a right to notice if a hearing had been scheduled or who are adversely affected by the decision.

ORS 227.175(5)--Local Appeal Procedures
(also ORS 197.762)

1987

Appeal procedures must require the applicant or appellant to raise any issue before the governing body with sufficient specificity to allow an opportunity to respond to and resolve each issue. Certain items of information must be included in the notice for a land use

hearing. At the hearing, a statement of applicable criteria must be made and that testimony must address these criteria.

ORS 227.175(6)--Public Use Airports

1987

Notice of a public hearing on a zone use permit in the vicinity of an airport must be provided to the owner of the airport.

ORS 227.178--Final Action on Permit or Zone Change Applications within 120 days

1983

ORS 227.178(1) requires a city to take final action on a permit or zone change application, including all appeals, within 120 days of completion of the application;

ORS 227.178(2) specifies procedures for dealing with incomplete applications;

ORS 227.178(3) requires the city to review an application against the standards and criteria effective at the time the application was submitted providing that the initial application was complete or completion was accomplished in a timely manner;

ORS 227.178(4) allows the applicant to request an extension beyond the 120-day limit;

ORS 227.178(5) applies the 120-day limit only to decisions wholly within the control of the city;

ORS 227.178(6) exempts those plan and land use regulation amendments or adoptions of new regulations that must be submitted to the DLCD Director under ORS 197.610(1) from the 120-day time limit; and

ORS 227.178(7) provides for an applicant whose application has not been acted on finally within 120 days after the application was initiated to seek a writ of mandamus to compel issuance of the permit or zone change or a determination that approval would violate the city's plan or land use regulations.

ORS 227.180--Review of Action on
Permit Application

1979, 1981, 1983

ORS 227.180(1)(a)(A) establishes that the period for filing an appeal of a decision shall not be less than seven days after the governing body mails or delivers the decision of a hearings officer;

ORS 227.180(1)(a)(B) and (C) require that a hearing on the appeal be held and that the record of the hearings officer's action be considered;

ORS 227.180(1)(b) notwithstanding (1)(a), a city council may establish that a hearings officer's decision is the final decision of the city;

ORS 227.180(1)(c) requires that fees for filing an appeal shall be no more than the average cost of such appeals or the actual cost of the appeal, excluding the cost of preparation of a written transcript.

(1)(c) also requires that fees for preparation of written transcripts not exceed the actual cost of preparing the transcript, up to \$500, plus one-half of the actual cost over \$500;

ORS 227.180(2) allows an aggrieved party in a proceeding for a zone change or discretionary permit to appeal the decision to LUBA;

ORS 227.180(3) states that ex parte contacts with a member of the decision making body shall not invalidate a final decision or action of the decision making body, provided that the member receiving the contact places the substance of the content of the ex parte communication in the record of the hearing and makes a public announcement of the content of the communication and of the right of parties to rebut the content at the first hearing where action will be considered or taken.

ORS 284.010-060--Regional Economic
Development Act

1987

This act relates to the "Oregon Comeback." The Governor may adopt proposed regional strategies. Local plans and land use

regulations need to be consistent with the regional strategies . Local governments need to review the "list of actions to implement" adopted regional strategies.

ORS 418.817--Family Day Care Providers

1987

Section 12 of HB 2884 provides that a day care provider which accommodates fewer than 13 children in the provider's home is considered to be a residential use. Such a home is a permitted use in all residential and commercial zones. Conditions must be no more restrictive than those imposed on other residential dwellings in the same zone. Zoning provisions contrary to this law may not be adopted or enforced.

ORS 443.530 through 443.550--
Residential Care Facilities

1981

ORS 443.590--Residential Homes

ORS 443.590 enacts a statewide policy stating that "physically or mentally handicapped persons are entitled to live as normally as possible within communities because their disability requires them to live in groups." ORS 443.600(1) provides that a "residential home shall be considered a residential use of property for zoning purposes, including areas zoned for single-family dwellings. No city or county shall enact or enforce zoning ordinances prohibiting the use of a residential dwelling, located in an area zoned for residential or commercial use, as a residential home.

ORS 443.600--Residential Care Facilities

1988

HB 2936 provides that residential care facilities (for mentally handicapped persons) must be allowed as a conditional use in residential zones permitting densities of 8 or more units per acre. Zoning ordinances or siting criteria which would preclude such siting shall not be enacted or enforced. Cities with a population less than 2,500 are exempted.

ORS 446.003(17)(a)-(c)--Mobile Home
Definitions

1987

ORS 446 has been amended to define mobile homes as: (1) residential trailers constructed before January 1, 1962; (2) mobile houses constructed between January 1, 1962 and June 15, 1976 which met Oregon construction requirements then in effect; and (3) manufactured homes constructed to federal standards.

Subfactor One-F: Other Issues

"Nothing in subsections (1)(a)-(e) of this rule is meant to limit or prevent any person from raising other issues or objections involving the 'substantial change in circumstances' factor set forth in subsection (2)(a) of this rule as long as such concerns are submitted consistent with the requirements of OAR 660-19-065." OAR 660-19-055(4)

National Flood Insurance Program: Most Oregon communities were notified by the Federal Emergency Management Agency (FEMA) in September 1986 that recent changes in federal regulations governing the National Flood Insurance Program (NFIP) would necessitate revisions in local ordinances that were adopted to establish eligibility in the NFIP. Your local review order should address these revisions as a substantial change in circumstances affecting the city and report whether the FEMA regulations have been complied with. Contact DLCD Flood Project Manager, Jim Kennedy, at 378-2332 for further information on the FEMA requirements.

FACTOR TWO

**NEW OR AMENDED GOALS OR RULES ADOPTED SINCE
THE DATE OF ACKNOWLEDGMENT**

OAR 660-19-055(2)(b)

The following new or amended goals and administrative rules applicable to your jurisdiction were adopted after the City of Cove's acknowledgment with the statewide planning goals. They are briefly summarized below with new planning requirements pertinent to your local review noted. Effective dates are also noted.

The jurisdiction should evaluate each new or amended goal or rule in order to determine more specifically what is required or allowed. The jurisdiction should then investigate the plan and land use regulations to determine whether they are in compliance

with the present goals and rules and develop plan or regulation amendments as necessary to attain compliance.

The local review order should state whether or not the jurisdiction finds that each listed goal or rule change applies, whether plan or land use regulation amendments are necessary to achieve compliance with the goals, and should briefly describe the proposed amendments. The text of proposed amendments should be submitted along with the local order if possible. Proposed amendments must be submitted to DLCD pursuant to OAR 660, Division 18 ("post-acknowledgment") 45 days in advance of the final hearing on adoption.

New or amended goals and rules generally applicable to the city:

GOALS

EFFECTIVE DATE

Goal 2--Land Use Planning (amendments)

12/30/83

Describes the exceptions process: when a local government may take an exception to a goal, standards of evaluation, and definition of terms. Deletes previous exceptions language.

This goal amendment will only be applicable if new exceptions are being taken or if there is conflicting information in the plan.

RULES

EFFECTIVE DATE

Goal 2--Land Use Planning Rule
OAR 660, Division 4

OAR 660-04 (new rule)

07/21/82

Codification of the Goal 2, Part II, exceptions standards and process.

OAR 660-04-000(1), 010, 022 (amendments)

02/10/84

Establishes goals for which an exception may or may not be taken; describes reasons which may justify why a goal might not apply; and describes reasons necessary to establish an exception to Goal 15.

OAR 660-04-018 (amendments)

03/21/86

Clarifies goal requirements regarding planning and zoning for exception areas; limits uses in developed and committed exception areas to existing types of uses

or compatible rural uses consistent with other goal requirements; and limits uses allowed in "reasons" exceptions to those used in justifying the exception.

The Goal 2 Rule and its amendments will apply to a jurisdiction's periodic review only if a new exception is being taken or if the plan contains conflicting or out-of-date information about the exceptions standards or process. In either of these cases, the local jurisdiction must conform to all of the current requirements of the Goal 2 rule.

Goal 4--Forest Lands Rule
OAR 660, Division 6

09/01/82

OAR 660-06 (new rule)

Implements and supplements Goal 4; is based on the previously adopted "Policy on Goal 4 Forest Lands." Specifies inventory requirements; states that when lands satisfy the definition requirement of both agricultural land and forest land, an exception is not required to select one designation over another; states that Goal 4 compliance within UGBs may be met through compliance with other goals; and does not require retention of forest uses within UGBs.

Goal 5--Open Spaces/Natural Resources
Rules--OAR 660, Division 16

06/29/81

OAR 660-16 (new rule)

Requires: (1) a detailed inventory of the quality, quantity, and location of a variety of site-specific resources; (2) a determination of potential conflicting uses of the resource site or surrounding areas; (3) an analysis of the environmental, social, economic, and energy consequences of allowing or limiting conflicting uses; and (4) development of a program to achieve the goal by prohibiting, limiting, or allowing conflicting uses. This program may involve development of plan policies, land use regulations, etc.

DLCD has enclosed a memorandum and sample worksheet for your use in meeting the Goal 5 rule requirements. At a minimum, you will need to complete a worksheet for each identified resource.

Goal 9--Commercial and Economic
Development Rule--
OAR 660, Division 9

At first periodic
review

OAR 660-09 (new rule)

Requires update of economic elements of plans for areas within urban growth boundaries unless the existing plan meets the rule requirements. Plans must be updated based on new economic trend information to: (1) forecast needs for industrial and commercial land in several broad "site categories," (e.g., light industrial, heavy industrial, commercial office, commercial retail, etc.); (2) inventory sites currently designated for industrial or commercial use; and (3) project community decisions about desired development. Based on this information, policies must be adopted stating the community's economic development objectives. Communities must designate land to meet forecasted needs. Plans for areas of 2,500 or more population must designate enough serviceable sites to meet needs of the next five years. Communities which seek industries with special site requirements must protect appropriate sites for such uses.

Goal 10--Housing Rule
OAR 660, Division 8

07/21/82

OAR 660-08 (new rule)

Establishes parameters for required inventory of buildable lands; requires local housing needs projections to address housing costs and household incomes and that projections be considered in a regional context; requires clear and objective standards, special conditions, and procedures for the approval of housing; establishes substantive standards for taking an exception to ORS 197.303(3); and requires jurisdictions that restrict

housing tenure to conduct a housing tenure needs analysis.

Several of the above rules and rule changes were adopted based on policy papers previously used by the Department and Commission in reviewing plan and land use regulations. For this reason, a number of local jurisdictions acknowledged before the effective dates of certain rules or rule changes may already be in compliance, or near compliance, with these rules. However, not all local jurisdictions acknowledged immediately after the effective date of a new or amended rule or goal are in compliance with these changes. If your jurisdiction is noted as needing to be reviewed against a new or amended rule or goal you had not anticipated, or if there is no noted goal or rule where one was anticipated, you should discuss the issue with your field representative. DLCD will be able to assist you in providing adequate findings to explain the specific facts as applied to your situation. Please review your plan with respect to all goals or rules listed above.

FACTOR THREE

NEW OR AMENDED STATE AGENCY PLANS OR PROGRAMS ADOPTED SINCE THE DATE OF ACKNOWLEDGMENT

(OAR 660-19-055(2)(c))

Several state agencies have submitted summaries of mandated programs related to land use which were not in effect when your plan was acknowledged. Programs which may apply to your jurisdiction are listed below.

DLCD has reviewed these programs and determined that they potentially meet the standards contained in ORS 197.640(3)(c) and OAR 660-19-055(2)(c) (e.g., the program: is mandated by state statute or federal law; is consistent with the goals; and has objectives that cannot be achieved in a manner consistent with the comprehensive plan or land use regulations).

Your local review order must address whether or not the plan and land use regulations are consistent with each listed program. If the plan or regulations are not consistent, amendments need to be made to attain consistency. The order should explain what amendments are proposed and how they will allow the objectives of the program to be achieved.

For additional information on the listed programs, please contact the agency contact persons rather than DLCD.

Department of Environmental Quality
(Contact Lydia Taylor, 229-6485.)

Air, Water, Solid Waste, and Noise Regulations, adopted and amended 1978-1985, ORS 183, 468, and OAR 340.

- Local governments must maintain an up-to-date inventory of major air, water, solid waste, and noise pollution sources and sites (where such information is made available to the jurisdiction) including the following:

air: major sources of air pollution near Class I areas and in nonattainment and air quality maintenance areas, and certain parking facilities, highway developments and certain airports;

water: wastewater treatment facilities, sludge disposal sites;

solid waste: solid waste disposal sites; and

noise: motor sports (racing) facilities and public airports.

- Local governments which lack policies requiring compliance with state and federal air, water, solid waste, and noise regulations must adopt such policies.
- Local governments with land use regulations relating to air, water, solid waste, and noise pollution which conflict with those of DEQ must amend them to be consistent.

Department of Forestry

(Contact district office, 963-3168.)

Forest Practices Program, amended 1979, 1981, 1983, 1987, ORS 527.

The Forest Practices Act regulates all forest operations on state, county, and private forest lands. Local government plans and land use regulations must be consistent with the Forest Practices Program and, as provided, the DOF/DFW cooperative agreement or DOF/LCDC State Agency Coordination Program.

Department of Transportation

(Contact Larry Christianson for airport and highway programs, 378-4548; contact Al Cook for parks programs, 378-6378.)

(Parks Division)

State Parks Master Plans, ongoing, ORS 390.180, OAR 736-18-000.

Local governments must maintain an up-to-date inventory of state parks and assure that local plans are consistent and coordinated with state park master plans.

(Highway Division)

Six-Year Highway Improvement Program, 1984, ORS 184.618.

Local governments must amend Goal 11 elements to inventory proposed highway improvements and adopt a policy to coordinate with ODOT in implementing its Highway Improvement Program.

Department of Water Resources

(Contact Jake Szramek, 378-3671.)

Minimum Streamflows, 1983, ORS 536.325.

The Water Resources Commission has recently set a minimum streamflow for the Grande Ronde basin. Cities relying upon surface water from streams in this basin as a significant part of local water supplies need to review their plans to assure that: (1) they have adequate water; (2) they have sufficient additional water rights to meet future needs; and (3) there is adequate flow in streams to fulfill water rights. If adequate water rights have not been obtained or flows are inadequate, additional supplies will need to be identified. Where cities have unexercised rights, use of those rights may affect junior water users, minimum flows, and instream users. Such facts must be addressed in the plan.

FACTOR FOUR

**ADDITIONAL PLANNING TASKS REQUIRED AT THE TIME
OF ACKNOWLEDGMENT OR AGREED TO IN RECEIPT OF STATE GRANT FUNDS**

OAR 660-19-055(2)(d)

Factor four does not apply to your jurisdiction according to our review of your acknowledgment reports and grant agreement. The local review order must still address this factor and state findings and a conclusion reporting that the factor does not apply.

NONMANDATORY PROGRAMS

A few state agencies have submitted summaries of nonmandatory programs which, though not required to be considered by local jurisdictions during periodic review, are strongly recommended to be considered. These include the following:

Department of Energy (ODOE)

(Contact Mike Byers, 378-2856.)

ODOE recommends that small cities update or develop a comprehensive plan element on energy conservation using the latest available information from ODOE or other sources. The comprehensive plan should include policies to:

(1) periodically assess the types and amount of local energy use; (2) practice energy management in city buildings and facilities; and (3) encourage local citizens and businesses to conserve energy and use renewable resources. Small cities should adopt zoning ordinance and subdivision standards that encourage energy conservation.

Department of Environmental Quality

(Contact Lydia Taylor, 229-6485.)

DEQ recommends that local governments recognize in their plans state and federal funding limitations for sewer and water projects; that local governments tie populations to infrastructure requirements; that land uses be regulated near sensitive aquifers; that certain nonpoint sources of water pollution not regulated by DEQ be controlled; and that plans be amended to address plan improvement items noted in DLCD staff reports. Local governments with populations of greater than 4,000 should review their land use regulations to ensure that recycling facilities are permitted with clear and objective standards.

Department of Transportation

(Contact Larry Christianson at 378-4548 for aeronautics or highway concerns; contact Al Cook at 378-6378 for parks concerns.)

(Aeronautics Division)

ODOT recommends that local jurisdictions with airports amend land use regulations to discourage incompatible sensitive uses near airports.

(Highway Division)

ODOT recommends that aggregate/mineral sources be protected so that highway facilities can be well maintained; that street

functional classification maps be maintained; that access management and agency coordination be encouraged; that the statewide nature of the state highway system be preserved by not unnecessarily delaying ODOT from carrying out emergency maintenance and operations functions; that the need for bikeways, footpaths and public transit be recognized in the plan; and that good local transportation planning be coordinated with other elements of local plans.

(Parks Division)

ODOT recommends that local jurisdictions permit parks as outright permitted uses in the zones in which they are allowed. ODOT also recommends that buffer areas surrounding state parks be established to protect the parks from adjacent conflicting uses.

Department of Water Resources

(Contact Jake Szramek, 378-3671.)

DWR recommends that local governments be aware of the latest available information for water resources. The comprehensive plan should include or make note of any amended basin programs for the area or hydroelectric power rules which would affect development and critical groundwater studies. Adequacy of water supplies to meet projected population growth should be assessed. DWR recommends development of a water conservation plan to deal with increased usage and temporary shortages.

Department of Human Resources, Health Division

The Health Division advises cities and counties of the need to plan for future water and sewer services to areas where conditions affecting existing installations create a present or potential health hazard. Many known areas of concern are outside of existing water or sewer service areas. The extension or provision of water or sewer services to address identified areas of concern may require a UGB amendment or goal exception. Information identifying these areas can be obtained by contacting your local health department. In direct service counties, contact the state Health Division (229-6310) for drinking water concerns or the DEQ regional office for sewage service needs.

Department of Land Conservation and Development

(Contact Brent Lake, 388-6424.)

The city should evaluate plan policies which direct the jurisdiction to develop or achieve various goals, objectives programs or planning tasks.

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